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26
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

27 JANE DOE, an individual,
28 Plaintiff,

Case No.: 3:12-cv-00689-MMA (DHB)

29 v.
30 THE CITY OF SAN DIEGO, et al.,
31 Defendants.

32
**DEFENDANT CITY OF SAN
33 DIEGO'S NOTICE OF MOTION
34 AND MOTION TO BIFURCATE
35 TRIAL**

36 Date: May 27, 2014
37 Time: 2:30 p.m.
38 Courtroom.: 3A
39 Judge: Hon. Michael M. Anello

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41 Magistrate Judge: Hon. David H. Bartick
42 Complaint filed: March 21, 2012
43 Trial date: August 12, 2014

1 TO THE HONORABLE DISTRICT COURT JUDGE MICHAEL M.
2 ANELLO, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:

3 PLEASE TAKE NOTICE that on May 27, 2014 at 2:30 p.m., in
4 Courtroom 3A of the United States District Court, Southern District, located at
5 221 West Broadway, San Diego, California, defendant City of San Diego will
6 and hereby does move this court for an order bifurcating trial of this matter such
7 that plaintiff's claim of municipal liability under 42 U.S.C. § 1983 and *Monell v.*
8 *Dep't of Soc. Servs.*, 436 U.S. 658 (1978) ("Monell") and her equitable claim for
9 injunctive relief are bifurcated and tried separately, if at all, from plaintiff's claim
10 for damages based upon the events of March 8, 2011 between Jane Doe and
11 former San Diego Police Officer Anthony Arevalos.

12 The instant motion is made pursuant to Rule 42(b) of the Federal Rules of
13 Civil Procedure on the grounds that separate trials are needed in furtherance of
14 convenience, to avoid undue prejudice and jury confusion, to promote the
15 expeditious and economical trial of this action, and to ensure any damages
16 awarded to plaintiff are compensatory in nature and are not punitive or an
17 impermissible method of pecuniary punishment of the City.¹

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27 ¹ See California Gov. Code § 818 (a public entity is not liable for damages
28 awarded under Section 3294 of the Civil Code or other damages imposed
primarily for the sake of example and by way of punishing the defendant).

The motion is based upon this Notice, the Memorandum of Points and Authorities, the Declaration of San Diego Police Chief Shelly Zimmerman, the Declaration of Michelle L. Gearhart, the Notice of Lodgment and exhibits thereto, all records on file with the Court in this action, and upon such oral and documentary evidence which may be presented at the hearing of this motion.

Respectfully submitted,

Dated: April 23, 2014

Daley & Heft, LLP

By: /s/ Michelle L. Gearhart

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